IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 674 OF 2007

Shri Ghanshyam R. Sonawane .... Applicant

Vs.

State of Maharashtra, through .... Respondents
Central Police Station,
Ulhasnagar - 3.

Mr. S.V. Dhakephalkar with Mr. Ajay S. Patil for the Applicant.

Mr. U.V. Nikam, APP for the Respondents

CORAM : J.H. BHATIA, J.,
DATE : 13TH MARCH, 2007

P.C.

1) The applicant who is accused no. 2 in Crime no. 209 of 2006 registered by Central Police Station, Ulhasnagar for the offence punishable under Section 376 (g) of the Indian Penal Code, seeks to be released on bail.

2) Heard Mr. S.V. Dhakephalkar, learned Counsel for the applicant and Mr. U.V. Nikam, learned APP for the State. Perused the F.I.R. and other Police papers.

3) The prosecution case in brief is that, on 23/09/2006 at about 8.15 pm. the prosecutrix and

her son namely Mahesh were present near Radhabai Chowk, Ulhasnagar. At that time, accused no. 1 Ashok Babar, alongwith other three accused, came by an auto rickshaw. Said Ashok Babar told the prosecutrix that he would get her a job in one Hospital. Saying so, he took the prosecutrix and her son by the said auto rickshaw. He himself sat near her while accused no. 2 Ghanshyam sat near the auto driver. Accused nos. 3 and 4 boarded another rickshaw. Accused Ashok Babar took said rickshaw near a flyover and thereafter he took the prosecutrix to a side of the bridge and committed rape on her. During that period, accused nos. 2 to 4 caught hold and prevented son of prosecutrix from going towards the prosecutrix.

4) Though the incident occurred on 23rd September 2006, report was lodged by the prosecutrix on 5/10/2006. There appears no plausible explanation for the delay of about 12 days in lodging the report. Even from the F.I.R., it is clear that rape was committed by Ashok Babar and not the present applicant. Admittedly accused nos. 3 and 4 have been granted bail. Accused no. 4 is juvenile. Case of the present applicant, who is accused no. 2, cannot be distinguished from the case against accused no. 3. On the principle of

parity, the present applicant deserves to be granted bail.

5) The applicant be released on bail on his executing P.R. bond of Rs.15,000/- with one surety in like amount with a condition that he shall not tamper with the prosecution evidence.

(J.H. BHATIA, J.)